

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

IN RE:

Robert D. Barbet

Santander Bank, N.A.

VS.

Robert D. Barbet

CHAPTER 13
CASE NO. 14-10036-DF

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Diane Finkle

Santander Bank, N.A., your moving party in the within Motion, hereby requests that the Court grant relief from the Automatic Stay imposed by 11 U.S.C. §362 respectfully represents:

1. The movant has a mailing address of One Aldwyn Lane, Villanova, PA 19085.
2. The debtor, Robert D. Barbet, has a mailing address of 65 S Comstock Pkwy, Cranston, RI 02921.
3. On January 10, 2014, the debtor filed a petition under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$207,000.00 given by Robert D. Barbet to NE Moves Mortgage Corporation on or about October 25, 2004. Said mortgage is recorded with the Cranston Land Records at Book 2806, Page 287 and covers the premises located at 65 South Comstock Pkwy, Cranston, RI 02921.
5. Said mortgage secures a note given by Robert D. Barbet to NE Moves Mortgage Corporation in the original amount of \$207,000.00. NE Moved Mortgage Corporation endorsed the note to

Sovereign Bank, A Federal Savings Bank. The movant is the holder of the note.

6. Said mortgage was assigned by NE Moves Mortgage Corporation to Sovereign Bank, Federal Savings Bank. A copy of the mortgage, note and assignment are attached hereto as **Exhibit A.**

7. Santander Bank, N.A is formerly known as Sovereign Bank, N.A.

8. As of September 30, 2014, approximately \$185,839.17 in principal, interest, late fees and other charges was due with regard to Santander Bank, N.A.

9. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Santander Bank, N.A.	First Mortgage	\$185,839.17
Compass Bank For Savin/bbva Compass	Second Mortgage	\$94,000.00
Total Secured Encumbrances:		\$279,839.17

10. The pre-petition arrearage is \$19,916.95.

11. According to the debtor's schedules, the fair market value of the subject property is \$157,000.00.

12. The debtor has no equity in the property.

13. The debtor has failed to remain current with the post-petition payments to Santander Bank, N.A.

14. The last post-petition payment received by the movant was a payment in the amount of \$1,239.39, received on or about March 18, 2014, and was applied to the March 1, 2014 post petition payment.

15. The total post-petition arrearage due as of September 30, 2014 is \$7,436.34, plus reasonable attorney's fees and costs, less a suspense of \$234.70.

16. The property is not necessary for a successful reorganization of the debtor.

17. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief as follows:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor has not made timely post petition payments, and that the debtor has failed to provide the movant with adequate protection; and

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that the debtor has no equity in the subject property and the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the stay for the purpose of: (i) exercising its rights under its agreements with the debtor under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; and (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

In Re: Robert D. Barbet
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Respectfully submitted,
For Santander Bank, N.A.

By its Attorney

/s/ Tatyana P. Tabachnik

Tatyana P. Tabachnik, Esquire
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Dated: October 24, 2014

Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

**UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

I, Tatyana P Tabachnik, Esquire, state that on October 24, 2014, I electronically filed the foregoing document with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

John Boyajian, Esquire, Chapter 13 Trustee
Gary L. Donahue, Esquire, Assistant U.S. Trustee
Russell D. Raskin, Esquire for the Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Tatyana P. Tabachnik

Tatyana P. Tabachnik, Esquire
RI# 8911

Mr. Robert D. Barbet
65 S Comstock Pkwy
Cranston, RI 02921

Compass Bank For Savin/bbva Compass
PO BOX 10566,
Birmingham, AL 35296

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